

### **REMARKS**

Favorable reconsideration, reexamination, and allowance of the present patent application are respectfully requested in view of the foregoing amendments and the following remarks.

#### **Withdrawal of Claims**

Applicant acknowledges the withdrawal of Claims 27 and 29-32 from consideration at this time, pursuant to the Restriction Requirement in the Office Action dated 23 July 2004.

#### **Rejection under 35 U.S.C. § 112, second paragraph**

In the Office Action, beginning at page 2, Claims 1-6, 8, 10, 12, 14-26, 28, 31, and 33 were rejected under 35 U.S.C. § 112, second paragraph, as reciting subject matters that allegedly are indefinite. Applicant respectfully requests reconsideration of this rejection.

More specifically, the Office Action alleges that the recitation in Claim 1 of “a base material” renders the claim indefinite, because “applicant has not specified [] which base material is mentioned in line 6”. Prior to the foregoing amendments to Claim 1, it recited at line 6 “the base material”; in the preceding five lines of the claim, only one base material was specified. Therefore, a plain reading of the claim (as it was then constructed) was that “the base material” of line 6 was the same “a base material” of line 3, the only other ‘base material’ that was present in the claim at the point of reading line 6. The presence in the claim of other instances of the words “base material” does not change that analysis, and therefore the claim was perfectly clear.

Nevertheless, Applicant has elected to further specify the base material as a ‘first’ and a ‘second’ base material in all the claims, to further an understanding of the scope of the claims. These amendments do not relate to the patentability of the claims, because the claims were not, in fact, indefinite to begin with, and therefore these amendments are merely editorial and stylistic in nature.

For at least the foregoing reasons, Applicant respectfully submits that Claims 1-6, 8, 10, 12, 14-26, 28, 31 and 33 fully comply with 35 U.S.C. § 112, second paragraph, and therefore

respectfully requests withdrawal of the rejection thereof under 35 U.S.C. § 112.

### **Rejection under 35 U.S.C. § 102**

In the Office Action, beginning at page 3, Claims 1-4, 10, 12, 14-20, 21-24, 31, and 33 were rejected under 35 U.S.C. § 102, as reciting subject matters that allegedly are anticipated by *Paprotna*. Applicant respectfully requests reconsideration of this rejection.

Applicant has, in prior papers filed in this application, presented summaries of aspects of the present invention and the prior art, including *Paprotna*. Applicant will therefore not further burden the record with redundant summaries, and merely incorporates those prior discussions by reference herein.

Claim 1 relates to a seal assembly having a combination of elements including, *inter alia*, first and third layers extending beyond the second layer at said two opposite sides, a welding seam connecting said first and second lateral edges of said first and third layers at said two opposite sides, and wherein the layered structure is connected at said two opposite sides to the spring side support.

Claim 14 relates to a seal assembly having a combination of elements including, *inter alia*, a welding seam connecting first and second lateral edges of first and third layers at two opposite sides, and wherein the first and third layers extend beyond a second layer at said two opposite sides.

Claim 21 relates to a seal assembly having a combination of elements including, *inter alia*, a welding seam connecting first and second lateral edges of first and third layers at two opposite sides, wherein the layered structure is connected on said two opposite sides to the spring side support, such that the second layer is held between said first and third layers, and wherein the first and third layers extend beyond the second layer at said two opposite sides.

The prior art, including *Paprotna*, fails to identically disclose or describe combinations of elements as recited in the pending claims.

As described in this application (*e.g.*, Figures 3, 4, and 5), the first and third layers 9 and 11 extend beyond the intermediate thermally insulating second layer 10 at two opposite sides,

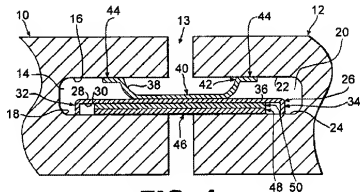
where their lateral edges meet and are connected by a welding seam (seen only in cross section in the Figures). The first and third layers therefore form a pocket-like structure with the second layer safely lying in between. Furthermore, the same welding seams can be used to additionally connect the laminated connector plate 8 to the spring side support 7.

*Paprotna* does not disclose, describe, or suggest a similar configuration. *Paprotna* describes, as illustrated in Fig. 1 (reproduced herein) elements 48 and 26 positioned on opposite sides of an element 50. The Office Action alleges, at page 3, that *Paprotna*'s element 26 is a first layer, element 48 is a second layer of thermal insulating material "on top of the first layer", and element 50 is "on top of the [second layer]". Applicant respectfully disagrees.

The Office Action's interpretation of *Paprotna* ignores the words "on top" in the claim or, alternatively, twists their

interpretation like a nose of wax in order to attempt to read the pending claims' subject matters on *Paprotna*. Plainly, the term "on top" must mean the same thing in both instances in the claim; however, the Office Action gives two opposite meanings for the two usages. Using the Office Action's orientation of the first and second layers, "on top" is in the direction 'down' in *Paprotna*'s Fig. 1; but, the Office Action then says that the element 50 is "on top" of the element 48, which is plainly illustrated in *Paprotna* to be 'up' from element 48. Thus, the Office Action effectively ignores the directional limitations that have been recited in the claims, by arbitrarily assigning the term "on top" to two opposite orientations of the elements. Plainly, this is not what is required by the claims.

Furthermore, even were one of ordinary skill in the art to rename the various elements of *Paprotna*'s device as first, second, and third layers, correctly taking into account the term "on



**FIG. 1**

top”, the pending claims would still not read on *Paprotna*’s device. Nowhere does *Paprotna* disclose or describe a welding seam or first and third layers extending beyond a second layer, as recited in the combinations of the pending claims. Instead, *Paprotna* describes a shim 26 that overhangs coincident layers 48, 50 of element 46.

For at least the foregoing reasons, Applicant respectfully submits that the subject matters of Claims 1-4, 10, 12, 14-20, 21-24, 31, and 33 are not anticipated by *Paprotna*, are therefore not unpatentable under 35 U.S.C. § 102, and therefore respectfully requests withdrawal of the rejection thereof under 35 U.S.C. § 102.

### **Rejection under 35 U.S.C. § 103(a)**

In the Office Action, beginning at page 5, Claims 5, 6, 8, 18, 25, 26, and 28 were rejected under 35 U.S.C. § 103(a), as reciting subject matters that allegedly are obvious, and therefore allegedly unpatentable, over the disclosure of *Paprotna* in view of the disclosure of *Kalkbrenner*. Applicant respectfully requests reconsideration of this rejection.

Neither *Paprotna* nor *Kalkbrenner* disclose, describe, or suggest a configuration similar to those recited in the pending claims. Therefore, assuming *arguendo* that a person of ordinary skill in the art would somewhere find motivation to combine *Paprotna* and *Kalkbrenner* in the manner alleged in the Office Action to be obvious, the resulting hypothetical construct would still not include each and every limitation recited in the claims. That is, *Kalkbrenner* fails to make up for the deficiencies of *Paprotna* with respect to the claimed subject matters.

For at least the foregoing reasons, Applicant respectfully submits that the subject matters of Claims 5, 6, 8, 18, 25, 26, and 28, each taken as a whole, would not have been obvious to one of ordinary skill in the art at the time of Applicant’s invention, are therefore not unpatentable under 35 U.S.C. § 103(a), and therefore respectfully requests withdrawal of the rejection thereof under 35 U.S.C. § 103(a).

**Conclusion**

Applicant respectfully submits that the present patent application is in condition for allowance. An early indication of the allowability of this patent application is therefore respectfully solicited.

If the patent examiner believes that a telephone conference with the undersigned would expedite passage of this patent application to issue, they are invited to call on the number below.

It is not believed that extensions of time are required, beyond those that may otherwise be provided for in accompanying documents. If, however, additional extensions of time are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned under 37 C.F.R. § 1.136(a), and the Commissioner is hereby authorized to charge fees necessitated by this paper, and to credit all refunds and overpayments, to our Deposit Account 50-2821.

Respectfully submitted,

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